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September 26, 1997

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SEP 29 1997

FCC MAIL ROOM

Federal Communications Commission
Formal Complaints Branch, Enforcement Division
Common Carrier Bureau
Mail Stop 1600A1
Washington, D.C. 20554

Re: CC Docket No. 94-129 -- Reply Comments
of IXC Long Distance, Inc.

Dear Sir or Madam:

In accordance with the Commission's July 15, 1997
Further Notice of Proposed Rulemaking and Memorandum Opinion and
Order on Reconsideration in CC Docket No. 94-129, enclosed are
two (2) copies of IXCLD's Reply Comments as filed today in the
above-referenced matter.

Should you have any questions, please do not hesitate
to contact me.

Sincerely yours,

Gary L. Mann /KSH

Gary L. Mann

Enclosures

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List ABCDE



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September 26, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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BY HAND

FCC MAIL ROOM

Re: CC Docket No. 94-129 -- Reply Comments
of IXC Long Distance, Inc.

Dear Mr. Caton:

On behalf of IXC Long Distance, Inc. ("IXCLD"), enclosed please find an original and eleven (11) copies of IXCLD's Reply Comments in the above-referenced matter. A diskette with IXCLD's Reply Comments in Wordperfect 5.1 is also enclosed. Two (2) copies of IXCLD's Reply Comments are also being sent to the Formal Complaints Branch, Enforcement Division, Common Carrier Bureau. Further, one copy of IXCLD's Reply Comments is being provided to International Transcription Services, Inc. ("ITS"). Finally, a copy of IXCLD's Reply Comments and a diskette with IXCLD's Reply Comments in Wordperfect 5.1 is being provided to Ms. Cathy Seidel at the Common Carrier Bureau.

Should you have any questions, please do not hesitate to contact me.

Sincerely yours,

Gary L. Mann /KSH

Gary L. Mann

Enclosures

cc: Formal Complaints Branch -- 2 copies by U.S. Mail
Ms. Cathy Seidel -- 1 copy, with diskette
ITS -- 1 copy

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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SEP 29 1997

In the Matter of)
)
Implementation of the)
Subscriber Carrier Selection)
Changes Provisions of the)
Telecommunications Act of 1996)
)
Policies and Rules Concerning)
Unauthorized Changes of)
Consumers' Long Distance)
Carriers)

FCC MAIL ROOM

CC Docket No. 94-129

REPLY COMMENTS OF IXC LONG DISTANCE, INC.

I. Introduction and Summary

IXC Long Distance, Inc. ("IXCLD"), a non-dominant interexchange long distance provider, submits these Reply Comments to address seven discrete issues.

First, the preferred carrier ("PC") change process should not be left with incumbent local exchange carriers ("ILECs"), but rather should be delegated to a third party administrator. Alternatively, ILECs should be subject to strict regulation of PC changes, and liability should be imposed on ILECs for failure to execute their obligations.

Second, the active solicitation of PC freezes is anti-competitive and should be prohibited. Contrary to the comments submitted by some ILECs, a PC freeze is not a simple matter of consumer protection, but rather can be used to stifle competition.

Third, resellers should not be required to disclose underlying carrier changes, or alternatively should be required to do so only in very limited circumstances. Disclosure of underlying carrier changes will not reduce incidents of slamming, but will be burdensome and costly to resellers, thus hindering resale competition.

Fourth, the Commission should preempt conflicting state regulation of verification procedures for primary carrier changes. Conflicting state verification requirements will generate undue confusion and be unnecessarily burdensome on carriers, and could even provide an opportunity for "slammers" to exploit procedural inconsistencies between state and federal requirements.

Fifth, slammed customers should be required to pay their authorized carrier at its authorized rates for any telecommunications services rendered. In this way, the slammer will receive no benefits from its actions, and the authorized carrier will be made whole.

Sixth, a time limit should be imposed on consumers making slamming complaints. The absence of a reasonable time limitation makes it extremely difficult for carriers to research and satisfactorily resolve slamming complaints.

Seventh, ILECs should be required to use a reseller indicator code, to identify when service is being provided by a reseller. This would avoid customer confusion about the identity of the customer's carrier, as well as prevent misidentification of the entity responsible for alleged slamming incidents.

II. The PC Change Process Should Be Shifted to A Third Party Administrator. Alternatively, ILECS Should Be Subject to Strict Regulations.

As explained in detail at page 3 of the Comments of the Competitive Telecommunications Association ("CompTel"), there is an enormous potential for abuse by the ILECs in their role as the executing carriers for PC changes. Accordingly, IXCLD agrees that the responsibility for executing PC changes should be shifted to a third-party administrator. (Comments of MCI at page 25.) Alternatively, stringent safeguards should be placed on the ILECs, regulating their implementation of PC changes, by requiring ILECs to implement PC changes promptly and accurately, and to provide correct information to requesting carriers concerning PC changes. (See CompTel Comments at page 4, note 3.)

Should an ILEC fail to properly process and execute PC change requests, liability should be imposed. IXCLD concurs with CompTel's proposal that the Commission should adopt a rule imposing liability "in an amount equal to the revenues earned for local or intraLATA toll services during the period spanning from submission of the PC-change request until the request is executed properly." (CompTel Comments at page 14.) In an increasingly competitive environment, only strict safeguards and the threat of monetary liability will minimize the prospect of ILEC abuses of the PC change process.

III. The Commission Should Prohibit the Active Solicitation of Preferred Carrier Freezes.

As set forth in its September 12, 1997 Comments in this proceeding, IXCLD believes that the active solicitation of PC freezes is anti-competitive, and should be prohibited. Some ILECs, however, incorrectly characterize PC freezes simply as a consumer protection issue. For example, BellSouth describes a PC freeze as "an offering to soothe the [slammed] subscriber's frustration and prevent future problems." (BellSouth Comments, at page 12.) Southwestern Bell asserts that PC freezes were "developed solely as a customer safeguard." (Southwestern Bell Comments at page 2.) This overly simplistic approach either ignores, or attempts to veil, the anti-competitive threat presented by PC freezes.

The potential for anti-competitive conduct by monopolist ILECs is real. IXCLD fully agrees with CompTel's assessment of PC freezes -- ILECs have used and will continue to use "PC-freezes as a tool to shield themselves from competition in the local and intraLATA toll markets they already dominate and to secure competitive advantage with respect to the interLATA toll markets they either are entering or are seeking to enter." (CompTel's Comments at pages 7-8.)

Indeed, PC freeze abuses are well documented. Examples are provided in the Comments of the Telecommunications Resellers Association ("TRA"), at pages 23-24. To combat these abuses, and the corresponding threat to competition, ILECs should not be permitted to actively solicit PC freezes.

Moreover, if PC freezes are allowed to continue, the Commission should take action to ensure that a PC freeze is as easy to undo as it is to implement, perhaps through a customer password or "PIN," as suggested in IXCLD's September 12, 1997 Comments. Further, as AT&T proposes, in order to avoid unnecessary costs and confusion, the Commission should also require ILECs to provide data identifying subscribers who have elected PC freezes, and the level of service covered by the freeze. (AT&T Comments at page 20.)

IV. Resellers Should Not Be Required to Notify Subscribers of Underlying Carrier Changes.

IXCLD's September 12, 1997 Comments urged the Commission to proceed with utmost conservatism regarding reseller notification of underlying carrier changes. IXCLD believes that a disclosure requirement should not be imposed on resellers. IXCLD further believes that a notification requirement for resellers will not protect against slamming. IXCLD concurs with WorldCom's position that the issue of when a resale carrier should disclose its underlying carrier is not a true slamming issue. (WorldCom Comments at page v.) Moreover, requiring resale carriers to notify subscribers of underlying carrier changes would be unduly burdensome and costly to the reseller.

The Commission also needs to take into account the fact that resale carriers continuously change or switch between wholesale carriers in order to procure the most efficient and least cost routing available. This industry characteristic, which promotes lower rates to end users, may lead the reseller/underlying carrier to change its carrier on a daily basis for some domestic or international routes. Moreover, when trouble occurs on the network, or during periods of high traffic volumes, such changes may occur hourly. Obviously, if resellers are required to disclose underlying carrier changes, it will be

difficult, if not impossible, for resellers to obtain the most cost effective routing for their subscribers' calls. This in turn would have a serious adverse impact on the wholesale and resale markets for domestic long distance and international telecommunications services.

Nevertheless, if the Commission requires resellers to disclose underlying carrier changes to subscribers, such disclosures should be mandated only in extremely limited circumstances -- (i) where the reseller is obligated by contract with its subscriber to use the network of a particular underlying carrier; or (ii) as TRA submits as its first proposal, where the reseller has made a "clear public commitment not to change its network service provider." (TRA Comments at page 27.) Any further disclosure requirements would only act to frustrate resale competition, without any countervailing benefit.

V. The Commission Should Preempt Conflicting State Regulation of Carrier Selection Verification Procedures.

IXCLD concurs with AT&T that the Commission should act to preempt conflicting state regulation of verification procedures for PC change orders. (AT&T Comments at pages 36-39.) In the absence of consistent verification rules, carriers will find it extremely burdensome, costly and perhaps impossible to comply with the patchwork of inconsistent verification procedures

that could be promulgated by more than fifty separate jurisdictions.

Moreover, conflicting verification requirements will thwart Congress' and the Commission's goals of eliminating slamming by engendering confusion among legitimate carriers, while enabling unscrupulous carriers to exploit inconsistencies between state and federal regulations. The Commission, therefore, should exercise its legitimate authority under Section 258 of the Communications Act to preempt inconsistent state verification procedures.

VI. Slammed Customers Should Pay the Authorized Carrier for Services Rendered.

IXCLD agrees with CompTel that the Commission should require a slammed customer to pay its authorized carrier, at that carriers' rates, for services rendered after slamming has occurred. (CompTel Comments at page 11.) Currently, the authorized carrier would not be entitled to any such recovery. Such a requirement would eliminate any economic benefit to the slamming company, will make the authorized carrier whole, and will also serve to prevent fraud on the part of the customer. IXCLD also concurs with CompTel's proposed procedures for implementing this policy. (CompTel Comments at pages 11-12.)

VII. Time Limitations Should Be Imposed On Consumers Making Slamming Complaints.

The Commission should impose a time limit for consumers to make slamming complaints. The absence of a reasonable time limitation makes it extremely difficult for carriers to research and satisfactorily resolve slamming complaints. IXCLD knows of slamming complaints that were received as late as nine months after the alleged slamming incident. A shorter time period, for example four months, should be more than sufficient time for a consumer both to realize that service has been switched without authorization to another carrier, and to file a complaint. Accordingly, IXCLD proposes a four-month period, from the date of the alleged slamming, for slamming complaints to be filed.

VIII. ILECs Should Be Required to Use Reseller Indicator Codes.

IXCLD concurs with WorldCom and Sprint that ILECs should be required to include reseller indicator codes in their records to identify a customer's service provider. WorldCom calls such a code a "pseudo-CIC." (See WorldCom's Comments at pages vi and 21.) The use of reseller indicator codes would serve two important purposes.

As Sprint points out, proper identification of the reseller in the ILECs' records would help to avoid customer

confusion about the identity of the customer's PC. Currently, "ILECs will inform a customer that his PC is the underlying facilities-based carrier whose CIC is used, rather than the switchless reseller that initiated the carrier change request." (Sprint's Comments at page 14.) The customer then assumes that he has been slammed by the underlying carrier. (Id.) The use of a reseller identification code would avoid this confusion, and decrease the number of erroneous slamming complaints.

In addition, where slamming has taken place, proper identification of resellers in the ILECs' records would also prevent misidentification of the underlying carrier, instead of the reseller, as the slammer. (See WorldCom's Comments at page 19.) IXCLD further concurs with WorldCom's suggestion that the Commission should act now to clarify that underlying carriers have no legal responsibility for the slamming actions of resale carriers. (See WorldCom's Comments at page v.)

IX. Conclusion

The PC change process should be delegated to a third party administrator, or alternatively, ILECs should be subject to strict regulation of PC changes. The active solicitation of PC freezes should be prohibited. Resellers should not be required to disclose underlying carrier changes. However, if the Commission concludes to the contrary, such disclosures should be

required only in extremely limited situations. The Commission should preempt conflicting state regulation of verification procedures for primary carrier changes. Slammed customers should be required to pay their authorized carrier at that carrier's authorized rates for any telecommunications services rendered. Further, a time limit should be imposed on consumers making slamming complaints, making it less difficult for carriers to investigate slamming complaints. Finally, ILECs should be required to use a reseller indicator code to identify when service is being provided by a reseller.

Respectfully submitted,

Gary L. Mann /ksh

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Dated: September 26, 1997